

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FT. WORTH DIVISION**

SHELLIE DURRETT AND MARK DURRETT,
PLAINTIFFS,

v.

GOLDEN WHEEL LOGISTICS, INC., AND
ZHONG XU,
DEFENDANTS.

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CIVIL ACTION NO. 4:22-cv-353

DEFENDANT ZHONG XU'S NOTICE OF REMOVAL

**TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS:**

COMES NOW Defendant Zhong Xu and hereby petitions this Court pursuant to 28 U.S.C. §§1332, 1441(b), and 1446 for removal on the basis of diversity jurisdiction to the United States District Court for the Northern District of Texas, Ft. Worth Division, of the action numbered and styled *Shellie Durrett, et vir v. Golden Wheel Logistics,, Inc. and Zhong Xu*; Cause No. CV2246281; In the 91st Judicial District Court, Eastland County, Texas, and in support thereof would respectfully show this Court as follows:

**I.
REMOVAL IS TIMELY**

1. Defendant Zhong Xu was made aware of Plaintiffs' Original Petition (the "Petition") on April 22, 2022. This Notice of Removal is filed within thirty (30) days of notice of the Petition and is timely filed under section 1446(b) of the United States Code. 28 U.S.C. § 1446(b). Defendant Zhong Xu seeks to remove the matter and is therefore the Removing Defendant.

II.
COMPLETE DIVERSITY OF CITIZENSHIP
EXISTS

2. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties. Plaintiffs in this action are citizens of a different state from Defendants. As a result, complete diversity exists.

3. Plaintiffs were citizens of Wise County, Texas at the time this action was filed. Consequently, Plaintiff were at the time this action was commenced, and are currently, citizens of the State of Texas and no other state.

4. Defendant Golden Wheel Logistics, Inc. is a corporation formed under the laws of the State of California, having its principal place of business now, and at the time this action was commenced, in the State of California. Defendant Golden Wheel Logistics, Inc., is now, and was at the time this action was commenced, a citizen of the State of California and of no other states.

5. Defendant Zhong Xu was a citizen of Siskiyou County, California at the time this action was filed. Consequently, Defendant Zhong Xu was at the time this action was commenced, and is currently, a citizen of the State of California and no other state.

III.
BASIS FOR REMOVAL

6. This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332 because (1) complete diversity exists between Plaintiffs, which are citizens of the State of Texas, and the Defendant, which is a citizen of the State of California; and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* Pltf. Pet. ¶¶3-6 (parties' domicile), 21 (relief sought). All Defendants consent to the removal of this matter.

IV.
REMOVAL HAS BEEN PROPERLY EFFECTED

7. In accordance with 28 U.S.C. §1446(a) and Local Rule 81.1, the following documents are attached hereto as exhibits:

Exhibit “1” – Civil Cover Sheet;

Exhibit “2” – Supplemental Civil Cover Sheet;

Exhibit “3” - Each document filed in the state court action, except discovery materials;
and

Exhibit “4” - A separately signed certificate of interested persons that complies with Local Rule 3.1(c) or 3.2(e).

8. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.

9. The Plaintiffs demanded a jury trial. *See* Pltf. Pet. ¶2.

10. Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending.

V.
NO WAIVER

11. By virtue of this Notice of Removal, Defendant does not waive its rights to assert any claims or other motions, including Rule 12 motions, permitted by the Federal Rules of Civil Procedure.

VI.
CONCLUSION

12. The removing Defendant prays that the filing of this Notice of Removal, the giving of written notice thereof to the Plaintiffs, and the filing of a copy of this Notice of Removal with the Clerk of this Court shall effect removal of said suit to this Court.

Respectfully submitted,

By: /s/ Matthew A. Ford

MATTHEW A. FORD

State Bar No. 24079875

matthew@srmclaims.com

LAW OFFICE OF MATTHEW A. FORD

1301 Solana Boulevard

Suite 2335

Westlake, Texas

(817) 865-1953 Voice/Fax

ATTORNEYS FOR DEFENDANT

ZHONG XU

CERTIFICATE OF SERVICE

The undersigned certifies that on the 25th day of April, 2022, a true and correct copy of the foregoing document was served by a manner authorized by Federal Rules of Civil Procedure 5(b)(2) upon the following counsel:

Spencer P. Browne

State Bar No. 24040589

Hussain Ismail

State Bar No. 24087782

REYES | BROWNE | REILLEY

8222 Douglas Avenue, Suite 400

Dallas, TX 75225

(214) 526-7900

(214) 526-7910 (FAX)

spencer@reyeslaw.com

hussain@reyeslaw.com

Counsel for Plaintiffs

/s/ Matthew A. Ford

MATTHEW A. FORD